ML

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,655	02/05/2002	Raymond Anthony Joao	RJ510	6956

7590 04/03/2007

RAYMOND A. JOAO, ESQ.
122 BELLEVUE PLACE
YONKERS, NY 10703

EXAMINER	
PENG, FRED H	
ART UNIT	PAPER NUMBER
2623	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/03/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/067,655	JOAO, RAYMOND ANTHONY	
	Examiner	Art Unit	
	Fred Peng	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 October 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *21-40* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *21-40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *05 February 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 21-40 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 21-23, 25, 27-29, 34-35 and 37 are rejected under 35 U.S.C. 102(e) as being anticipated by Rogers et al (US 2003/0088878 A1).

Regarding Claim 21, Rogers discloses an apparatus, comprising:

a first receiver (FIG.2, -1012), wherein the first receiver receives a broadcast or a transmission of at least one of a program, an event, and a game, on or over at least one of the Internet and the World Wide Web from at least one of a broadcasting system device and a computer, wherein the first receiver is associated with a communication device associated with a user (Para 44 lines 1-5, 12-21, Para 45 lines 1-4);

an input device (FIG.2, 1016) for inputting user information into the communication device;

a transmitter (FIG.2, -1012) for transmitting information regarding the user information to a second receiver (FIG.2, -1000, FIG.2A, -120), wherein the second receiver is associated with the at least one of a broadcasting system device and a computer (FIG.2, -1002), and further

wherein the information is transmitted to the second receiver on or over at least one of the Internet and the World Wide Web (FIG.2, 1008, cable modem network is the internet); and

a processing device (FIG.2, -1000, FIG.2A, -142, Live Internet Event inherently includes a processing device), wherein the processing device is associated with the at least one of a broadcasting system device and a computer (FIG.2, 1002), and further wherein the processing device processes the information received by the second receiver in response to the information being received by the second receiver, and further wherein the processing allows for an at least one on a user participation in the at least one of a program, an event, and a game, and a two-way communication between the user and an individual participant in or of the at least one of a program, an event, and a game, during the at least one of a program, an event, and a game (Para 61 lines 1-9, live chatting is a event participated by the user and another individual participant).

Regarding Claim 22, Rogers further discloses the at least one of a program, an event, and a game, is at least one of a television program, a television show, and a game show (Para 51 lines 1-5, Para 52 lines 1-6).

Regarding Claim 23, Rogers further discloses the at least one of a program, an event, and a game, is a radio program (Para 5 lines 3-6).

Regarding Claim 25, Rogers further discloses the at least one of a program, an event, and a game, is at least one of a marketing program, an infomercial or a commercial, and an advertisement (Para 25 lines 1-5).

Regarding Claim 27, Rogers further discloses the communication device is an interactive television (FIG.2, 1012, 1016, Para 45).

Regarding Claim 28, Rogers further discloses the communication device is a computer (FIG.2, 1012, 1016, Para 45).

Regarding Claim 29, same rejection as Claim 28 since they are the same claims.

Regarding Claims 34 and 35, Rogers further discloses the at least one of a program, an event, and a game, takes place at a studio and a playing field (FIG.2A, -138, -142, Live event in traditional broadcast network inherently includes taking place in studio and playing field).

Regarding Claim 37, Rogers further discloses the user communicates with the individual participant by at least one of text messaging, instant messaging, and an e-mail message (Para 61 lines 5-9).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 24, 26, 30, 32-33 and 38-40 rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers et al (US 2003/0088878 A1) in view of Steingold et al (US 5,537,143).

Regarding Claim 24, Rogers discloses limitations in Claim 21.

However, Rogers fails to disclose at least one of a program, an event, and a game, is a sporting event.

In an analogous art, Steingold discloses at least one of a program, an event, and a game, is a sporting event (Col 1 lines 30-40).

It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to modify Rogers' system to include at least one of a program, an event, and a game, is a sporting event, as taught by Steingold as one of the most popular events among TV audiences.

Regarding Claim 26, Rogers discloses limitations in Claim 21.

However, Rogers fails to disclose the processing device processes information regarding at least one of a prize, a winnings, and a compensation, for the user for the user's participation in the at least one of a program, an event, and a game.

In an analogous art, Steingold discloses the processing device processes information regarding at least one of a prize, a winnings, and a compensation, for the user for the user's participation in the at least one of a program, an event, and a game (FIG.1, -23, FIG.4, -34, -64, -12).

It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to modify Rogers' system to include the processing device processes information regarding at least one of a prize, a winnings, and a compensation, for the user for the user's participation in the at least one of a program, an event, and a game, as taught by Steingold as an incentive to encourage the viewers to participate the game.

Regarding Claim 30, Rogers discloses limitations in Claim 21.

However, Rogers fails to disclose the communication device is a wireless telephone.

In an analogous art, Steingold discloses the communication device is a telephone (FIG.1, -18). Those skilled in the art know that the telephone can be wireless.

It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to modify Rogers' system to include a phone, as taught by Steingold to take advantage of the existing communication device to save money and effort.

Regarding Claims 32 and 33, Rogers discloses limitations in Claim 21.

However, Rogers fails to disclose the individual participant in or of the at least one of a program, an event, and a game, is a game contestant and a game player.

In an analogous art, Steingold discloses the individual participant in or of the at least one of a program, an event, and a game, is a game contestant and a game player (FIG.5, -17, Col 4 lines 52-53).

It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to modify Rogers' system to include the individual participant in or of the at least one of a program, an event, and a game, is a game contestant and a game player, as taught by Steingold so the viewer has more sense of participation with live TV broadcast.

Regarding Claim 38, Rogers discloses limitations in Claim 21.

However, Rogers fails to disclose the second receiver receives information regarding at least one of a next play and a next activity in the at least one of a program, an event, and a game, anticipated by the user, and further wherein the processing device compares the information regarding at least one of a next play and a next activity in the at least one of a program, an event, and a game, anticipated by the user with an actual next play or next activity which occurs in the at least one of a program, an event, and a game.

In an analogous art, Steingold discloses second receiver receives information regarding at least one of a next play and a next activity in the at least one of a program, an event, and a game, anticipated by the user, and further wherein the processing device compares the information regarding at least one of a next play and a next activity in the at least one of a program, an event, and a game, anticipated by the user with an actual next play or next activity which occurs in the at least one of a program, an event, and a game (FIG.3, -17, -24, -, -30, -32).

It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to modify Rogers' system to include second receiver receives answers

regarding a game and compare with the actual results, as taught by Steingold as a typical way to determine a winner.

Regarding Claim 39, Steingold further discloses the processing device compiles a score indicative of the user's ability to correctly anticipate a next play or a next activity in a game (Col 1 lines 42-52).

It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to modify Rogers' system to include a score indicative of the user's ability to correctly anticipate a next play or a next activity in a game, as taught by Steingold as an objective way to determine a winner.

Regarding Claim 40, Steingold further discloses the processing device determines at least one of a prize, a winnings, and a compensation, earned by the user for correctly anticipating a next play or a next activity in the at least one of a program, an event, and a game (FIG.4, -34, -17).

It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to modify Rogers' system to include a winnings earned by the user for correctly anticipating a next play in a game, as taught by Steingold as an incentive to reward a winner.

6. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers et al (US 2003/0088878 A1) in view of Botelho et al (US 2002/0069105 A1).

Regarding Claim 31, Rogers discloses limitations in Claim 21.

However, Rogers fails to disclose the communication device is an interactive radio.

In an analogous art, Botelho discloses the communication device is an interactive radio (Para 33).

It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to modify Rogers' system to include an interactive radio, as taught by Botelho as an alternative communication device.

7. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers et al (US 2003/0088878 A1) in view of Crandall et al (US 6425131 B2).

Regarding Claim 36, Rogers discloses limitations in Claim 21.

However, Rogers fails to disclose the user communicates with the individual participant by speaking directly with the individual participant.

In an analogous art, Crandallet discloses the user communicates with the individual participant by speaking directly with the individual participant (Col 2 lines 20-32).

It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to modify Rogers' system to include the user communicates with the individual participant by speaking directly with the individual participant, as taught by Crandallet to take advantage of voice communication device like telephone.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred Peng whose telephone number is (571) 270-1147. The examiner can normally be reached on Monday-Friday 08:30-18:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Fred Peng
Patent Examiner

Chris Grant
Supervisory Patent Examiner

CHRISTOPHER GRANT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600